

CHAPTER 12 LICENSING

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 3]
[Prior to 9/17/03, see 705—Ch 2]

531—12.1(99G,252J) License eligibility criteria.

12.1(1) A person, partnership, unincorporated association, authority, or other business entity shall not be selected as a lottery retailer if the person or entity meets any of the following conditions:

- a.* Has been convicted of a criminal offense related to the security or integrity of the lottery in Iowa or any other jurisdiction.
- b.* Has been convicted of any illegal gambling activity, false statements, perjury, fraud, or a felony in Iowa or any other jurisdiction.
- c.* Has been found to have violated the provisions of Iowa Code Supplement chapter 99G, or any regulation, policy, or procedure of the lottery, unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature.
- d.* Is a vendor or any employee or agent of any vendor doing business with the lottery.
- e.* Resides in the same household as an officer of the lottery.
- f.* If an individual, is less than 18 years of age.
- g.* Does not demonstrate financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.
- h.* Has not demonstrated that the applicant is the true owner of the business proposed to be licensed and that all persons holding at least a 10 percent ownership interest in the applicant's business have been disclosed.
- i.* Has knowingly made a false statement of material fact to the authority.

12.1(2) The applicant shall be current in filing all applicable tax returns to the state of Iowa and in payment of all taxes, interest, and penalties owed to the state of Iowa, excluding items under formal appeal pursuant to applicable statutes.

12.1(3) The lottery will deny a license to any applicant who is an individual if the lottery has received a certificate of noncompliance from the child support recovery unit with regard to the individual, until the unit furnishes the lottery with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 252J.2 and Iowa Code Supplement sections 99G.7(1), 99G.9(3), 99G.21(2), and 99G.24.

531—12.2(99G,252J) Factors relevant to license issuance. The lottery may issue a license to any applicant to act as a licensed retailer who meets the eligibility criteria established by Iowa Code Supplement chapter 99G and these rules. In exercising its licensing discretion, the lottery shall consider the following factors: the background and reputation of the applicant in the community for honesty and integrity; the financial responsibility and security of the person and business or activity; the type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people, and the operation and integrity of the lottery; the accessibility of the applicant's place of business or activity to the public; the sufficiency of existing licenses to serve the public convenience; the volume of expected sales; the accuracy of the information supplied in the application for a license; the applicant's indebtedness to the state of Iowa, local subdivisions of the state, or the United States government; if an individual, indebtedness owed for child support payments; and any other criteria or information relevant to determining if a license should be issued.

This rule is intended to implement Iowa Code section 252J.2 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.24(5).

531—12.3(99G) Applicant or person defined. For purposes of determining whether an applicant or person is eligible for a license, the term “applicant” or “person” shall include the owner of a sole proprietorship, all partners or participants in a partnership or joint venture, the officers of a fraternal organization, the officers and directors of a corporation, persons owning at least 10 percent or more of a corporation, persons owning at least 10 percent or more of a limited liability company, the manager or managers of a limited liability company, and any legal entity applying for a license.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.24.

531—12.4(99G,252J) Lottery licenses.

12.4(1) The lottery has discretion to license a qualified applicant to sell any one of the following lottery products or any combination of the following products: scratch tickets; pull-tab tickets; and computerized game tickets, if available. The lottery may require an applicant to sell one or more lottery products as a condition of selling any other lottery product. A lottery license authorizes the licensee to sell only the type of lottery products specified on the license.

12.4(2) Any eligible applicant may apply for a license to act as a retailer by first filing with the lottery an application form together with any supplements required. Supplements may include, but are not limited to, authorizations to investigate criminal history, financial records and financial resources, and authorizations to allow the lottery to conduct site surveys.

12.4(3) All lottery license applications must be accompanied by a nonrefundable fee of \$25.

12.4(4) Retailers who are currently licensed may apply for a license modification to allow the sale of additional lottery products. A current retailer may be required to complete an additional application or application supplements.

12.4(5) The lottery may waive the payment of any license fee to facilitate an experimental program or a research project.

12.4(6) A limited number of retailers may be selected as licensees from applications received. The selection shall be made based on criteria designed to produce the maximum amount of net revenue and serve public convenience. The lottery may refuse to accept license applications for a period of time if the lottery determines that the number of existing licensees is adequate to market any lottery product.

12.4(7) The lottery will grant, deny, or place on hold all applications within 60 days of acceptance of an application. Applications placed on hold shall be considered denied for purposes of appeal. If an application is denied because the lottery has received a certificate of noncompliance from the child support recovery unit in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 252J.2 and 252J.8 and Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.21(2), 99G.24, and 99G.30.

531—12.5(99G) Transfer of licenses prohibited. Lottery licenses may not be transferred to any other person or entity and do not authorize the sale of lottery products at any location other than the licensed premises specified on the license.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24(3), 99G.25, and 99G.30.

531—12.6(99G) Expiration of licenses. A license is valid until it expires, is terminated by a change of circumstances, is surrendered by the licensee, or is revoked by the lottery. A license that does not have an expiration date will continue indefinitely until surrendered, revoked, or terminated by a change in circumstances.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24(3), and 99G.27.

531—12.7(99G,252J) Provisional licenses. The lottery may issue a provisional license to an applicant for a lottery license after receipt of a fully completed license application, the authorization for a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional license shall expire at the time of issuance of the requested license or 90 days from the date the provisional license was issued, whichever occurs first, unless the provisional license is extended by the lottery.

Notwithstanding the foregoing, the lottery will deny a provisional license to any applicant who is an individual if the lottery has received a certificate of noncompliance from the child support recovery unit with regard to the individual, until the unit furnishes the lottery with a withdrawal of the certificate of noncompliance. If an application is denied because the lottery has received a certificate of noncompliance from the child support recovery unit in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 252J.2 and 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24(3), and 99G.27.

531—12.8(99G) Off-premises licenses. Any licensed retailer who has been issued a license or provisional license to sell tickets may apply for an off-premises license to sell tickets in locations other than that specified on the existing license. The lottery must specifically approve the geographical area in which sales are to be made and the types of locations at which off-premises sales are to be made prior to issuance of an off-premises license. Additional instructions and restrictions may be specified by the lottery to govern off-premises sales. An off-premises license shall expire at the time designated on the off-premises license. An off-premises license may be renewed at the lottery's discretion.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.30.

531—12.9(99G) Duplicate licenses. Upon the loss, mutilation, or destruction of any license issued by the lottery, application for a duplicate shall be made. A statement signed by the retailer which details the circumstances under which the license was lost, mutilated, or destroyed may be required by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.30.

531—12.10(99G) Reporting changes in circumstances of the retailer. Every change of business structure of a licensed business, such as from a sole proprietorship to a corporation, and every change in the name of a business must be reported to the lottery prior to the change. Substantial changes in the ownership of a licensed business must also be reported to the lottery prior to the change. A substantial change of ownership is defined as the transfer of 10 percent or more equity in the licensed business from or to another single individual or legal entity. If a change involves the addition or deletion of one or more existing owners or officers, the licensee shall submit a license application reflecting the change and any other documentation the lottery may require. All changes will be reviewed by the lottery to determine if the existing license should be continued.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.27(1).

531—12.11(99G) License not a vested right. The possession of a license issued by the lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a legal right. The possession of a license issued by the lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.21(2), and 99G.27.

531—12.12(99G,252J) Suspension or revocation of a license.

12.12(1) The lottery may suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

- a.* Failing to meet or maintain the eligibility criteria for license application and issuance established by Iowa Code Supplement chapter 99G or these rules.
- b.* Violating any of the provisions of Iowa Code Supplement chapter 99G, these rules, or the license terms and conditions.
- c.* Failing to file any return or report or to keep records required by the lottery; failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments that are dishonored or electronic funds transfers that are not paid; fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery.
- d.* If public convenience is adequately served by other licensees.
- e.* Failing to sell a minimum number of tickets as established by the lottery.
- f.* A history of thefts or other forms of losses of tickets or revenue from the business.
- g.* Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control.
- h.* Obtaining a license by fraud, misrepresentation, concealment or through inadvertence or mistake.
- i.* Making a misrepresentation of fact to the board or lottery on any report, record, application form, or questionnaire required to be submitted to the board or lottery.
- j.* Denying the lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted.
- k.* Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the license.
- l.* Systematically pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates cause to believe that the participation of such person in these activities is inimical to the proper operation of an authorized lottery.
- m.* Failing to follow the instructions of the lottery for the conduct of any particular game or special event.
- n.* Failing to follow security procedures of the lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event.
- o.* Making a misrepresentation of fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event.
- p.* For a licensee who is an individual, when the lottery receives a certificate of noncompliance from the child support recovery unit in regard to the licensee, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.
- q.* Allowing activities on the licensed premises that could compromise the dignity of the state.
- r.* Failing to accurately or timely account or pay for lottery products, lottery games, revenues, or prizes as required by the lottery.

- s. Filing for or being placed in bankruptcy or receivership.
- t. Engaging in any conduct likely to result in injury to the property, revenue, or reputation of the lottery.
- u. Making any material change, as determined in the sole discretion of the lottery, in any matter considered by the lottery in executing the contract with the retailer.

12.12(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee. All other notices of revocation or suspension shall be 20 days following service upon a licensee.

12.12(3) If a retailer's license is suspended for more than 180 days from the effective date of the suspension, the lottery will revoke the retailer's license upon 15 days' notice served in conformance with 531—12.13(99G,252J).

12.12(4) Upon suspicion that a retailer has sold a ticket to an underage player, the lottery will investigate and provide a written warning to the retailer describing the report of the event and of the potential violation of Iowa Code Supplement section 99G.30(3). In the event a retailer sells a ticket to an underage player and the lottery can substantiate the claim, the lottery shall suspend the retailer's license for 7 days. When a retailer sells a ticket to an underage player and the lottery can substantiate the claim a second time in a period of one year from the date of the first event, the lottery shall suspend the retailer's license for a period of 30 days. When a retailer sells a ticket to an underage player and the lottery can substantiate the claim a third time in a period of one year from the date of the first event as described in this rule, the retailer's license shall be suspended for one year.

12.12(5) Upon revocation or suspension of a retailer's license of 30 days or longer, the retailer shall surrender to the lottery, by a date designated by the lottery, the license, lottery identification card, and all other lottery property. The lottery will settle the retailer's account as if the retailer had terminated its relationship with the lottery voluntarily.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30(3), and 99G.35.

531—12.13(99G,252J) Methods of service. The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

Notice of a license revocation or a suspension for the reasons described in 531—12.12(99G,252J) shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel. The notice shall set forth the reasons for the suspension or revocation and provide for an opportunity for a hearing. If requested by the licensee, a hearing on the suspension or revocation shall be held within 180 days or less after the notice has been served.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.24.

531—12.14(99G,252J) Licensee's obligation. Licensees and license applicants shall keep the lottery informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the lottery with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

531—12.15(99G,252J) Calculating the effective date. In the event a licensee or applicant files a timely district court action following service of a lottery notice pursuant to Iowa Code sections 252J.8 and 252J.9, the lottery shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the lottery to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the lottery shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

This rule is intended to implement Iowa Code sections 252J.8 and 252J.9 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

531—12.16(99G) Financial responsibility. The lottery shall use the following guidelines to determine financial responsibility for a retailer seeking a license to sell lottery products.

12.16(1) *Sole proprietorship.* The lottery will not require a bond from a sole proprietor if the account history for the applicant for the past two years discloses no more than four accounts past due and no accounts over 90 days past due.

12.16(2) *Partnership.* If the license applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 12.16(1). If the credit history discloses that the requirements of subrule 12.16(1) are satisfied, the lottery will not require a bond.

12.16(3) *Fraternal or civic associations.* If the license applicant is a fraternal association, civic organization or other nonprofit entity, the applicant must meet the credit guidelines set forth in subrule 12.16(1). If the fraternal or civic association or other nonprofit entity has no credit history or the credit history is incomplete in the sole discretion of the lottery, then the officers of the fraternal or civic association or other nonprofit entity must meet the requirements of subrule 12.16(1). If the credit history discloses that the requirements of subrule 12.16(1) are satisfied, the lottery will not require a bond.

12.16(4) *Corporations and limited liability companies in existence two years or more if a credit risk appraisal is available through a financial and credit reporting entity.* If the license applicant is a corporation or a limited liability company and the corporation or the limited liability company has been in existence for more than two years from the date of the application and a credit risk appraisal is available through a financial and credit reporting entity, the license applicant must meet all of the following financial responsibility guidelines:

- a. The license applicant is paying 60 percent of its suppliers on time or within terms; and
- b. The license applicant must have a credit risk appraisal provided by a financial and credit reporting entity that indicates the corporation's or limited liability company's financial condition is fair or better.

If the corporation or the limited liability company meets the guidelines described in this rule, the lottery will not require a bond from the license applicant.

12.16(5) *Corporations and limited liability companies in existence less than two years or if a credit risk appraisal is not available through a financial and credit reporting entity.* If a corporation has been in existence for less than two years from the date of the application or a credit risk appraisal is not available through a financial and credit reporting entity, the lottery will review the credit history of the corporate officers who hold 10 percent or more of the stock of the corporation. If a limited liability company has been in existence for less than two years or a credit risk appraisal is not available through a financial and credit reporting entity, the lottery will review the credit history of the members of a limited liability company who have contributed 10 percent or more to the capital of the limited liability company. Fifty percent or more of the corporate officers or members of the limited liability company must meet the credit guidelines set forth in subrule 12.16(1). If the corporate officers or the members of the limited liability company meet the requirements set forth in subrule 12.16(1), the lottery will not require the corporation or the limited liability company to obtain a bond.

12.16(6) Bonding requirements. With respect to any license applicant whose credit history does not meet the guidelines described in subrules 12.16(1) through 12.16(5), the applicant will be required to obtain a bond from a surety company authorized to do business in Iowa or offer a cash bond in the amounts generally described herein. The amount of the bond will vary depending on the type of lottery products sold by the license applicant, the sales history of the retail location or the average volume of sales of lottery products at the location, or a combination of the above factors. The following minimum amounts will be required:

- a. Sale of pull-tab tickets only, \$500.
- b. Sale of instant tickets with or without pull-tab tickets, \$1,500.
- c. Sale of on-line games with or without instant and pull-tab tickets, \$2,500.

12.16(7) Holding period for bond. The lottery will hold the bond provided by license applicant for a minimum time period of one year. Thereafter, the lottery will review the credit history of the licensed retailer. If the retailer's account history shows no delinquent payments, the lottery will release the bond.

This rule is intended to implement Iowa Code Supplement sections 99G.7(1) and 99G.26.

531—12.17(99G) Monitor vending machine retailers. Unless specifically noted in 531—Chapter 14, the rules contained in this chapter do not apply to entities holding licenses pursuant to 531—Chapter 14.

This rule is intended to implement Iowa Code Supplement sections 99G.7(1) and 99G.26.

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